



**COMMONWEALTH of VIRGINIA**  
*Office of the Attorney General*

**Kenneth T. Cuccinelli, II**  
Attorney General

900 East Main Street  
Richmond, Virginia 23219  
804-786-2071  
FAX 804-786-1991  
Virginia Relay Services  
800-828-1120  
7-1-1

September 8, 2011

Mr. Lee Andes  
State Council of Higher Education for Virginia  
James Monroe Building  
101 North Fourteenth Street  
Richmond, VA 23219

**Re: Virginia Tuition Assistance Grant Program (8 VAC 40-70)**

Dear Mr. Andes:

You ask whether the State Council of Higher Education for Virginia (SCHEV) possesses the requisite authority to promulgate the above-referenced regulations. I have reviewed the regulations, and I write this letter to inform you that the regulations appear to be legally sufficient and that SCHEV has the requisite authority to promulgate such regulations.

Va. Code Ann. § 23-9.6:1(15) vests the State Council of Higher Education with the authority to promulgate such regulations as may be necessary to carry out its powers and duties under the Code. Va. Code Ann. § 23-38.13, which concerns the Virginia Tuition Assistance Grant Program, provides, “The State Council of Higher Education is hereby designated as the administering agency for the program established by this chapter, and authorized to promulgate regulations consistent therewith and appropriate to the administration of the program.” Because the promulgation of regulations for the implementation of the program is expressly the responsibility of SCHEV, it is my view that SCHEV has the mandated authority to promulgate such regulations. The proposed regulations are consistent with the statutory grant of authority to promulgate them, are consistent with the statutes, and are internally consistent. The proposed regulations do not appear to run afoul of state or federal statutes. I further find that the proposed regulations have no Constitutional defect.

If you require additional assistance on this matter, please do not hesitate to contact me at (804) 225-4028 or [jbelue@oag.state.va.us](mailto:jbelue@oag.state.va.us).

Respectfully,

Jake A. Belue  
Assistant Attorney General